

Plan established by the Federal Employees' Retirement System Act of 1986, codified in pertinent part at 5 U.S.C. 8431–8440, 8471–8479.

§ 1620.72 Plan contributions after choosing judges' annuity.

(a) A judge or magistrate who has chosen to receive a judges' annuity is entitled to contribute to the Plan. Except as otherwise provided in this subpart, these judges and magistrates are covered by the same rules and regulations as apply to CSRS participants in the Plan.

(b)(1) Judges and magistrates who have chosen to receive a judges' annuity may elect to contribute up to 5 percent of their basic pay per period to the Plan. Basic pay has the same meaning as under 5 U.S.C. 8331(3). Amounts received under a judges' annuity are not basic pay, and no Plan contributions may be made from those annuity payments.

(2) Retirement under 28 U.S.C. 377, including removal from office under section 377(d) on the ground of mental or physical disability, is a separation from service.

(c) A judge or magistrate who has chosen to receive a judges' annuity is not entitled to receive employer contributions under 5 U.S.C. 8432(c). This limitation does not apply retroactively or in any other way cause a judge or magistrate who previously was eligible to receive employer contributions under 5 U.S.C. 8432(c) to forfeit those contributions. However, as indicated in § 1620.76 below, the judge or magistrate may receive a reduced annuity under 28 U.S.C. 377 or section 2(c) of the Act as a result of such contributions.

[54 FR 32786, Aug. 10, 1989, as amended at 59 FR 1889, Jan. 13, 1994; 61 FR 58755, Nov. 18, 1996]

§ 1620.73 Election of Plan benefits after choosing judges' annuity.

(a) A judge or magistrate who has chosen to receive a judges' annuity and who separates after age 65 entitled to an immediate annuity under either section 28 U.S.C. 377 or section 2(c) of the Act, or who separates at any age entitled to a disability annuity under 28 U.S.C. 377(d), may elect to receive his

or her Plan account as provided in 5 U.S.C. 8433(b).

(b) A judge or magistrate who has chosen to receive a judges' annuity and who separates before reaching age 65, but who is entitled to receive an annuity under 28 U.S.C. 377(c) or section 2(c) of the Act upon reaching age 65, may elect to receive his or her Plan account as provided in 5 U.S.C. 8433(c). However, the period described in section 8433(c)(3) will be the period that begins on or after the date on which the judge's or magistrate's annuity under 28 U.S.C. 377 or section 2(c) of the Act commences.

(c) A judge or magistrate who has chosen to receive a judges' annuity and who separates before becoming eligible under 28 U.S.C. 377 or section 2(c) of the Act for an immediate annuity or an annuity upon reaching 65 is required to transfer his or her Plan account balance to an eligible retirement plan as defined in 26 U.S.C. 402(a)(5)(E)(iv).

[54 FR 32786, Aug. 10, 1989. Redesignated at 59 FR 1889, Jan. 13, 1994]

§ 1620.74 Spousal rights.

(a) A spouse or former spouse of a judge or magistrate who is a Plan participant and who has not chosen a judges' annuity retains the rights provided under 5 U.S.C. 8351, if the judge or magistrate is a CSRS employee, or under 5 U.S.C. 8435 and 8467, if the judge or magistrate is a FERS employee.

(b) A spouse or former spouse of a judge or magistrate who is a Plan participant and who has chosen a judges' annuity is entitled to whatever rights are provided under 5 U.S.C. 8435 and 8467 with respect to the judge's or magistrate's entire Plan account. Section 5 U.S.C. 8351 does not apply to a spouse or former spouse of a judge or magistrate who has chosen a judges' annuity, even if the judge or magistrate was a CSRS employee before choosing a judges' annuity.

[54 FR 32786, Aug. 10, 1989. Redesignated at 59 FR 1889, Jan. 13, 1994]

§ 1620.75 Offset of judges' annuity.

Under rules to be established by the Administrative Office of the United States Courts, the annuity received by